

AMENDED IN ASSEMBLY APRIL 17, 2001
AMENDED IN ASSEMBLY MARCH 27, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 564

Introduced by Assembly Member Lowenthal

February 21, 2001

An act to amend Section 1680 of, and to add Sections 1647.125 and 2245.1 to, the Business and Professions Code, relating to dentistry.

LEGISLATIVE COUNSEL'S DIGEST

AB 564, as amended, Lowenthal. Dentistry: oral conscious sedation.

The Dental Practice Act regulates and licenses the practice of dentistry, including the use of oral conscious sedation by licensees for pediatric patients.

This bill would require the Dental Board of California to ~~conduct random inspections of oral sedation certificate holders' offices to make sure their equipment and facilities are in compliance with board standards~~ *submit a report to the Assembly Committee on Health and the Senate Business and Professions Committee on or before January 1, 2003, regarding reports it has received on deaths or hospitalizations as a result of dental treatment.*

This bill would make it unprofessional conduct for a dentist to fail to notify the board orally within 48 hours and in writing within 7 days of any patient that was admitted to a hospital ~~within 72 hours as a result of dental treatment, and would allow the board to inspect a dental office upon receipt of a report if the board finds it necessary.~~ *The bill would*

also give the board the authority to conduct an inspection of a dental office upon receipt of a report of an incident involving oral sedation that required medical assistance. This bill would also require individuals licensed by the Medical Practice Act to notify the board of any hospital admission related to dental treatment within 48 hours of the admission. Because a violation of the new Medical Practice Act provisions would be a crime, the bill would impose a state-mandated local program by creating a new crime.

This bill would also make legislative findings and declarations and express legislative intent regarding the use of sedatives in pediatric dentistry.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares as follows:
- 2 (a) The law requires that pediatric dentists ensure that drugs
- 3 and techniques used in oral conscious sedation to minors shall have
- 4 a margin of safety wide enough to render unintended loss of
- 5 consciousness unlikely.
- 6 (b) Sedatives used in pediatric dentistry can cause brain
- 7 damage or death if improperly administered.
- 8 (c) Dentists are currently not required to report incidents where
- 9 a patient requires emergency medical attention.
- 10 SEC. 2. It is the intent of the Legislature that all ~~dental and~~
- 11 ~~medical personnel licensed dentists~~ shall report incidents
- 12 involving oral sedation that require medical assistance. The
- 13 Dental Board of California shall ~~randomly check emergency~~
- 14 ~~medical equipment and monitoring devices to ensure they meet~~
- 15 ~~state requirements.~~ *have the authority, upon receipt of an incident*
- 16 *report, to conduct an inspection of the dental office.*
- 17 SEC. 3. ~~Section 1647.125 is added to the Business and~~
- 18 ~~Professions Code, to read:~~



1 ~~1647.125.—The board shall conduct random inspections of oral~~
2 ~~sedation certification holders' offices to insure that facilities and~~
3 ~~equipment requirements established by the board are being met.~~
4 *The Dental Board of California shall submit a report to the*
5 *Assembly Committee on Health and the Senate Business and*
6 *Professions Committee on or before January 1, 2003, regarding all*
7 *reports that the board has received on the subject of deaths or*
8 *hospitalizations as a result of dental treatment.*

9 SEC. 4. Section 1680 of the Business and Professions Code
10 is amended to read:

11 1680. Unprofessional conduct by a person licensed under this
12 chapter is defined as, but is not limited to, the violation of any one
13 of the following:

14 (a) The obtaining of any fee by fraud or misrepresentation.

15 (b) The employment directly or indirectly of any student or
16 suspended or unlicensed dentist to practice dentistry as defined in
17 this chapter.

18 (c) The aiding or abetting of any unlicensed person to practice
19 dentistry.

20 (d) The aiding or abetting of a licensed person to practice
21 dentistry unlawfully.

22 (e) The committing of any act or acts of gross immorality
23 substantially related to the practice of dentistry.

24 (f) The use of any false, assumed, or fictitious name, either as
25 an individual, firm, corporation, or otherwise, or any name other
26 than the name under which he or she is licensed to practice, in
27 advertising or in any other manner indicating that he or she is
28 practicing or will practice dentistry, except that name as is
29 specified in a valid permit issued pursuant to Section 1701.5.

30 (g) The practice of accepting or receiving any commission or
31 the rebating in any form or manner of fees for professional
32 services, radiograms, prescriptions, or other services or articles
33 supplied to patients.

34 (h) The making use by the licentiate or any agent of the
35 licentiate of any advertising statements of a character tending to
36 deceive or mislead the public.

37 (i) The advertising of either professional superiority or the
38 advertising of performance of professional services in a superior
39 manner. This subdivision shall not prohibit advertising permitted
40 by subdivision (h) of Section 651.

1 (j) The employing or the making use of solicitors.

2 (k) The advertising in violation of Section 651.

3 (l) The advertising to guarantee any dental service, or to
4 perform any dental operation painlessly. This subdivision shall not
5 prohibit advertising permitted by Section 651.

6 (m) The violation of any of the provisions of law regulating the
7 procurement, dispensing, or administration of dangerous drugs, as
8 defined in Article 7 (commencing with Section 4211) of Chapter
9 9, or controlled substances, as defined in Division 10
10 (commencing with Section 11000) of the Health and Safety Code.

11 (n) The violation of any of the provisions of this division.

12 (o) The permitting of any person to operate dental radiographic
13 equipment who has not met the requirements of Section 1656.

14 (p) The clearly excessive prescribing or administering of drugs
15 or treatment, or the clearly excessive use of diagnostic procedures,
16 or the clearly excessive use of diagnostic or treatment facilities, as
17 determined by the customary practice and standards of the dental
18 profession.

19 Any person who violates this subdivision is guilty of a
20 misdemeanor and shall be punished by a fine of not less than one
21 hundred dollars (\$100) or more than six hundred dollars (\$600),
22 or by imprisonment for a term of not less than 60 days or more than
23 180 days, or by both a fine and imprisonment.

24 (q) The use of threats or harassment against any patient or
25 licentiate for providing evidence in any possible or actual
26 disciplinary action, or other legal action; or the discharge of an
27 employee primarily based on the employee's attempt to comply
28 with the provisions of this chapter or to aid in the compliance.

29 (r) Suspension or revocation of a license issued, or discipline
30 imposed, by another state or territory on grounds which would be
31 the basis of discipline in this state.

32 (s) The alteration of a patient's record with intent to deceive.

33 (t) Unsanitary or unsafe office conditions, as determined by the
34 customary practice and standards of the dental profession.

35 (u) The abandonment of the patient by the licentiate, without
36 written notice to the patient that treatment is to be discontinued and
37 before the patient has ample opportunity to secure the services of
38 another dentist and provided the health of the patient is not
39 jeopardized.

1 (v) The willful misrepresentation of facts relating to a
2 disciplinary action to the patients of a disciplined licensee.

3 (w) Use of fraud in the procurement of any license issued
4 pursuant to this chapter.

5 (x) Any action or conduct which would have warranted the
6 denial of the license.

7 (y) The aiding or abetting of a licensed dentist or dental
8 auxiliary to practice dentistry in a negligent or incompetent
9 manner.

10 (z) The failure to report to the board by telephone within 48
11 hours and in writing within seven days any of the following: (1)
12 the death of his or her patient during the performance of any dental
13 procedure; (2) the discovery of the death of a patient whose death
14 is related to a dental procedure performed by him or her; or (3) the
15 admission to, or the treatment of, his or her patient in a hospital
16 ~~within 72 hours as a result of dental treatment. Upon receipt of a~~
17 *report pursuant to this subdivision the board may conduct an*
18 *inspection of the dental office if the board finds that it is necessary.*

19 (aa) Participating in or operating any group advertising and
20 referral services which is in violation of Section 650.2.

21 (bb) The failure to use a fail-safe machine with an appropriate
22 exhaust system in the administration of nitrous oxide. The board
23 shall, by regulation, define what constitutes a fail-safe machine.

24 (cc) Engaging in the practice of dentistry with an expired
25 license.

26 (dd) Except for good cause, the knowing failure to protect
27 patients by failing to follow infection control guidelines of the
28 board, thereby risking transmission of blood-borne infectious
29 diseases from dentist or dental auxiliary to patient, from patient to
30 patient, and from patient to dentist or dental auxiliary. In
31 administering this subdivision, the board shall consider
32 referencing the standards, regulations, and guidelines of the State
33 Department of Health Services developed pursuant to Section
34 1250.11 of the Health and Safety Code and the standards,
35 guidelines, and regulations pursuant to the California
36 Occupational Safety and Health Act of 1973 (Part 1 (commencing
37 with Section 6300), Division 5, Labor Code) for preventing the
38 transmission of HIV, hepatitis B, and other blood-borne pathogens
39 in health care settings. As necessary, the board shall consult with
40 the California Medical Board, the Board of Podiatric Medicine,

1 the Board of Registered Nursing, and the Board of Vocational
2 Nursing and Psychiatric Technicians, to encourage appropriate
3 consistency in the implementation of this subdivision.

4 The board shall seek to ensure that licentiates and others
5 regulated by the board are informed of the responsibility of
6 licentiates and others to follow infection control guidelines, and of
7 the most recent scientifically recognized safeguards for
8 minimizing the risk of transmission of blood-borne infectious
9 diseases.

10 (ee) The utilization by a licensed dentist of any person to
11 perform the functions of a registered dental assistant, registered
12 dental assistant in extended functions, registered dental hygienist,
13 or registered dental hygienist in extended functions who, at the
14 time of initial employment, does not possess a current, valid
15 license to perform those functions.

16 ~~SEC. 5. Section 2245.1 is added to the Business and~~
17 ~~Professions Code, to read:~~

18 ~~2245.1. All individuals licensed under this chapter shall~~
19 ~~report hospital admissions related to dental treatment to the Dental~~
20 ~~Board of California within 48 hours of admission.~~

21 ~~SEC. 6. No reimbursement is required by this act pursuant to~~
22 ~~Section 6 of Article XIII B of the California Constitution because~~
23 ~~the only costs that may be incurred by a local agency or school~~
24 ~~district will be incurred because this act creates a new crime or~~
25 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
26 ~~for a crime or infraction, within the meaning of Section 17556 of~~
27 ~~the Government Code, or changes the definition of a crime within~~
28 ~~the meaning of Section 6 of Article XIII B of the California~~
29 ~~Constitution.~~